

AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

Northern District of New York

United States of America

v.

Case No.

5:20-MJ- 461 (TWB)

BETHANN MARIE WALLACE

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of July 10, 2020 in the county of Onondaga in the
Northern District of New York, the defendant(s) violated:

*Code Section**Offense Description*

Title 18, United States Code,
 Section 875(c)

Transmitting in interstate commerce a threat to injure and kill the person of
 another, specifically, United States Congressman John Katko.

This criminal complaint is based on these facts:

See attached affidavit of FBI Special Agent Daniel Capone.

☒ Continued on the attached sheet.

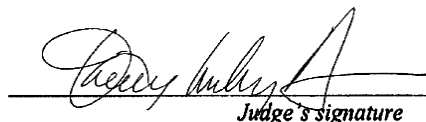
Attested to by the applicant in accordance with the requirements
 of Rule 4.1 of the Federal Rules of Criminal Procedure.


Complainant's signature

Daniel Capone, FBI Special Agent

Printed name and title

Attested to by the affiant in accordance with Rule 4.1
 of the Federal Rules of Criminal Procedure.

Date: 09/16/2020

*Judge's signature*City and state: Syracuse, New York

Hon. Therese Wiley Dancks, U.S. Magistrate Judge

Printed name and title

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

STATE OF NEW YORK)
COUNTY OF ONONDAGA) SS:
CITY OF SYRACUSE)

I, Daniel Capone, being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I am a Special Agent with the Federal Bureau of Investigation ("FBI"), where I have served since 2002. I am currently assigned to the Albany Division. Having previously been assigned to the Joint Terrorism Task Force and the Cyber Squad, since August 2019 I have been assigned to a criminal squad and continue to investigate cyber-related cases as well as various crimes. I have also received training and gained experience in interviewing and interrogation techniques, the execution of federal search warrants and seizures, and the identification and collection of computer-related evidence. I am a Special Agent with the United States Department of Justice, Federal Bureau of Investigation ("FBI"), and as such I am an "investigative or law enforcement officer" of the United States within the meaning of Title 18, United States Code, Section 2510(7).

2. This affidavit is made in support of a criminal complaint charging Bethann Marie Wallace (hereinafter "WALLACE") with violating Title 18, United States Code, Section 875(c). Title 18, United States Code, Section 875(c) makes it a crime to transmit in interstate or foreign commerce any communication containing any threat to injure the person of another.

3. The facts and information contained in this affidavit are based upon my direct participation in this investigation and based upon facts as relayed to me by other law enforcement officers pertaining to this investigation. This affidavit is submitted for the limited purpose of establishing probable cause for charged offenses. As a result, I have not included each and every fact known to me regarding this matter.

PROBABLE CAUSE

4. On July 10, 2020, at approximately 2:51 PM (EST) a female subject, later identified as WALLACE, using phone number 315-720-8028, called the Washington D.C. office of United States Congressman John Katko and left a threatening voicemail message, which was subsequently reported to the United States Capitol Police on July 21, 2020. In this voicemail, WALLACE threatened to kill Congressman Katko.

5. More specifically, the message stated:

“Hey, faggot John Katko. You ever send, ever send, a motherfucking fake maintenance person into my motherfucking apartment again, I'll put a bullet in your motherfucking head. How's that? You want my name? It's Agent Bethann Prosser Marie Wallace. How's that? And I will, I'll motherfucking put a fucking bullet in your fucking head. You faggot, pedophile piece of shit. I hope you're (Unintelligible) pedophiling piece of fucking shit. You pretend piece of shit. I will. I'll fucking murder you. I'm murder you right in front of Fitzpatrick. I'll kidnap him and I'll rape him. I'm fucking raped by gang and I'll fucking do it you phony mother fucker.”

6. Due to the volume of calls received by the Congressman's Office, the message was not listened to by Congressman Katko's staff until July 21, 2020. Once staff did listen

to the call, it was referred to the United States Capitol Police, Threat Assessment Section, who began an investigation in coordination with the FBI.

7. The calling number (315-720-8028) returned to Verizon Wireless, and public records checks matched that cellular number to BETHANN MARIE PROSSER-WALLACE, with a residential address in Baldwinsville, New York, which is within the Northern District of New York. Law enforcement also subpoenaed Verizon Wireless to determine the subscriber of 315-720-8028, and Verizon records confirm that WALLACE is the subscriber of that number.

8. On July 24, 2020, myself and a New York State Trooper interviewed WALLACE at her residence in Baldwinsville, New York. During that interview, WALLACE states that she remembered calling Congressman Katko's office a few weeks prior, but was surprised that she actually left a message because she thought it did not work. WALLACE was asked whether she recalled saying in her voicemail that she would "...put a bullet in [his] head," which she acknowledged. When asked why, she did not offer any explanation other than to say that she did not reach a live person on the phone and thought it was a message, but even then she thought that the message system was not working or recording anything.

9. WALLACE said that she had been having trouble lately with her messages being blocked because of sound waves. She explained that there are sound waves that interfere with communication, and also that deliver information, and everyone knows about them, even though hardly anyone will acknowledge that they exist. She said that the FBI

obviously knows about them, but the State Police probably know more about the waves than anyone.


10. WALLACE was also asked to describe the circumstances surrounding her telephone call to Congressman Katko's office, but she did not provide any explanation. WALLACE was asked why she picked up the phone to call him in particular, and WALLACE said "well, rumor is he's a Congressman, so, you know, he must know about the sound waves for sure."

11. As a result of the threat, US Capitol Police increased security on Congressman Katko while he was in Washington D.C. Further, FBI Agents also notified State and Local Law Enforcement agencies in the Syracuse, New York area, who increased patrols around, and at times when, the Congressman was in his home District.

CONCLUSION

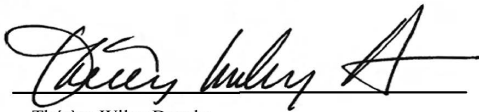
12. Based on the foregoing, there is probable cause to believe that BETHANN MARIE WALLACE did knowingly and willfully transmit, in interstate and foreign commerce, that is, using a cellular phone between the Northern District of New York and Washington D.C., a threat to kill United States Congressman John Katko, in violation of Title 18, United States Code, Section 875(c).

Attested to by the Applicant in accordance with the requirements of Rule 4.1 of the Federal Rules of Criminal Procedure.



DANIEL CAPONE
Special Agent
Federal Bureau of Investigation

I, the Honorable Therese Wiley-Dancks, United States Magistrate Judge, hereby acknowledge that this affidavit was attested by the affiant by telephone on September 16, 2020, in accordance with Rule 4.1 of the Federal Rules of Criminal Procedure.



Thérèse Wiley Dancks
United States Magistrate Judge